

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leanne Fornelli	Team: Squad #16	CCRB Case #: 201602498	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 02/13/2016 5:30 AM	Location of Incident: § 87(2)(b) in the Bronx; 326 East 110th Street in Manhattan	Precinct: 46	18 Mo. SOL 8/13/2017	EO SOL 8/13/2017	
Date/Time CV Reported Thu, 03/24/2016 4:48 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 03/24/2016 4:48 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ruben Cuesta	14469	946886	046 PCT
2. An officer			046 PCT
3. POM Ronald Hobson	17689	941908	046 PCT
4. POM Connor O'Toole	18937	959002	046 PCT
5. POM Frankly Galindo	29367	934893	046 PCT
6. POM Eric Bernard	19619	958308	046 PCT
7. POM Christopher Chin	20543	958402	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christopher Jurkota	10002	950654	046 PCT
2. SGT Daniel Tirado	4953	937635	046 PCT
3. LT Gabriel Healy	00000	931721	046 PCT


Officer(s)	Allegation	Investigator Recommendation
A.POM Ronald Hobson	Abuse: Police Officer Ronald Hobson entered § 87(2)(b) in the Bronx.	
B.POM Ruben Cuesta	Abuse: At § 87(2)(b) in the Bronx, Police Officer Ruben Cuesta damaged § 87(2)(b)'s property.	
C.POM Ronald Hobson	Abuse: Police Officer Ronald Hobson entered § 87(2)(b) in the Bronx.	
D.POM Eric Bernard	Abuse: Police Officer Eric Bernard entered § 87(2)(b) in the Bronx.	
E.POM Frankly Galindo	Force: At § 87(2)(b) in the Bronx, Police Officer Frankly Galindo used physical force against § 87(2)(b).	
F.POM Christopher Chin	Force: At § 87(2)(b) in the Bronx, Police Officer Christopher Chin used physical force against § 87(2)(b).	

Officer(s)	Allegation	Investigator Recommendation
G.POM Eric Bernard	Abuse: At § 87(2)(b) in the Bronx, Police Officer Eric Bernard threatened § 87(2)(b) with the use of force.	
H.POM Eric Bernard	Abuse: At § 87(2)(b) in the Bronx, Police Officer Eric Bernard threatened § 87(2)(b) and individuals with the use of force.	
I.POM Eric Bernard	Abuse: At § 87(2)(b) in the Bronx, Police Officer Eric Bernard threatened § 87(2)(b) with the use of force.	
J.POM Frankly Galindo	Abuse: At § 87(2)(b) in the Bronx, Police Officer Frankly Galindo threatened § 87(2)(b) with the use of force.	
K. An officer	Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)	
L. An officer	Force: At 326 East 110th Street in Manhattan, an officer used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On March 24, 2016, § 87(2)(b) filed this complaint in-person at the Civilian Complaint Review Board (Board Review 01). On February 13, 2016, at approximately 5:30 a.m., officers from the 46<sup>th</sup> Precinct responded to a domestic incident at § 87(2)(b) in the Bronx. The following allegations resulted:

PO Ronald Hobson entered § 87(2)(b) (Allegation A). PO Ruben Cuesta damaged § 87(2)(b)'s property by fatally shooting her dog (Allegation B). PO Hobson and PO Eric Bernard entered § 87(2)(b) (Allegations C and D). PO Frankly Galindo and PO Christopher Chin used physical force against § 87(2)(b) (Allegations E and F). PO Bernard threatened § 87(2)(b) unidentified individuals and § 87(2)(b) with the use of force (Allegations G, H and I). PO Galindo threatened § 87(2)(b) with the use of force (Allegation J). An officer spoke discourteously to § 87(2)(b) (Allegation K). At an Animal Care Control Center located at 326 East 110<sup>th</sup> Street in Manhattan, an officer used physical force against § 87(2)(b) (Allegation L). § 87(4-b), § 87(2)(g) No summons was issued and no arrest was effected as a result of the incident.

This case has video evidence, a SnagIt copy of which has been placed below. Please note that the full video can be found in Board Review 02 and the transcription of the video can be found in Board Review 03.  2016-06-27\_12-18-32.mp4

This case was placed on the sensitive case list as a result of the incident receiving extensive media coverage.

This case was submitted past the 90-day benchmark because the GO15's for PO Cuesta and PO Hobson were received over six weeks from the date they were requested.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) filed a Notice of Claim, thereby rendering the case ineligible for mediation.
- On March 11, 2016, § 87(2)(b) filed a Notice of Claim (Board Review 04) in which she alleges that an officer shot her pit bull, § 87(2)(b) thereby killing him and causing her extreme emotional distress. § 87(2)(b) also alleges in her notice of claim that she was pushed onto stairs, which resulted in a lower back injury, and placed in a chokehold. § 87(2)(b) is seeking \$500,000.00 in redress.
- On June 27, 2016, a search of Office of Court Administration records revealed the following criminal histories:
  - § 87(2)(b)
  - There were no criminal charges for § 87(2)(b) (Board Review 06) or § 87(2)(b) (Board Review 07) in the past ten years.
  - As § 87(2)(b) is a minor, any criminal charges would not appear in Office of Court Administration records.
  - There were no results for § 87(2)(b) with his name and date of birth, and the charges for individuals named § 87(2)(b) with no date of birth noted were too numerous to include.

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint filed by and involving § 87(2)(b) and the first involving § 87(2)(b) and § 87(2)(b) (Board Review 08).
- PO Hobson has been a member of service for nine years and has 16 CCRB allegations pleaded against him in six other cases. None of these allegations were substantiated § 87(2)(g).
- PO Cuesta has been a member of service for seven years and has six CCRB allegations pleaded against him in two other cases. None of these allegations were substantiated § 87(2)(g).
- PO Galindo has been a member of service for eleven years and this is his first CCRB case.
- PO Bernard has been a member of service for less than one year and has one CCRB allegation of abuse of authority (entry/search) pleaded against him in one other case that was closed as complainant unavailable.
- PO Chin has been a member of service for less than one year and this is his first CCRB case.
- PO O'Toole has been a member of service for less than one year and this is his first CCRB case.

### **Potential Issue**

§ 87(2)(b) (Board Review 10) said that while PO Galindo and PO Chin held down § 87(2)(b) on the stairs (addressed below), individuals from the apartments below the § 87(2)(b) floor, where the incident was occurring, came out of their apartments. § 87(2)(b) alleged that PO Bernard threatened these individuals with the use of force (addressed below). § 87(2)(b) did not know the identifying or contact information for these individuals. No other civilian made this allegation. Without further information, these individuals could not be identified and contacted for a statement.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

- § 87(2)(b) (Board Review 09) alleged that after she left the building with § 87(2)(b) and § 87(2)(b) cursed at a group of officers, and one officer replied, "Fuck you." § 87(2)(b) (Board Review 10) also alleged that an officer said to § 87(2)(b) "Fuck you," but did not say that § 87(2)(b) cursed. § 87(2)(b) (Board Review 11) did not allege this. § 87(2)(b) and § 87(2)(b) described this officer as a black female. The 46<sup>th</sup> Precinct Roll Call (Board Review 12) for the time of the incident has no black female listed. No interviewed officer acknowledging overhearing this interaction. With only the testimonies of § 87(2)(b) and § 87(2)(b) as evidence, the investigation could not identify the subject officer who allegedly spoke discourteously to § 87(2)(b). Allegation K has therefore been pleaded against "an officer" from the 46<sup>th</sup> Precinct.
- § 87(2)(b) (Board Review 10) alleged that at the Animal Care Control Center, located at 326 East 110<sup>th</sup> Street in Manhattan, she was kneeling and recording § 87(2)(b)'s deceased dog with a cellphone when one of the officers pushed her over with his foot. § 87(2)(b) could only describe the officer as a male. Neither § 87(2)(b) (Board Review 09) nor § 87(2)(b) (Board Review 11), both of whom were with § 87(2)(b) at the time, alleged this. The investigation identified PO Christopher Jurkota and PO O'Toole as the two male officers

who were present at the Animal Care Control Center. Both PO Jurkota (Board Review 25) and PO O'Toole (Board Review 26) denied pushing over § 87(2)(b) or seeing any other officer do this. With only § 87(2)(b)'s testimony as evidence, the investigation could not identify the subject officer who allegedly pushed over § 87(2)(b). Allegation L has therefore been pleaded against "an officer" from the 46<sup>th</sup> Precinct.

### **Allegation Not Pleaded**

In § 87(2)(b)'s Notice of Claim (Board Review 04), it is alleged that an officer pushed her onto the stairs and placed her in a chokehold. As neither § 87(2)(b) nor any civilian or officer stated that this occurred and as the video footage shows no evidence of this, the allegation has not been pleaded.

### **Allegation A – Abuse of Authority: Police Officer Ronald Hobson entered § 87(2)(b) in the Bronx.**

It is undisputed that PO Hobson entered § 87(2)(b) § 87(2)(b)'s apartment. PO Hobson (Board Review 13) said that when he arrived at the § 87(2)(b) floor landing, he heard no barking or growling. As PO Hobson spoke to § 87(2)(b) regarding her complaint of a violation of an order of protection, he heard scratching coming from the next door apartment, identified via investigation to be § 87(2)(b) § 87(2)(b)'s apartment. PO Hobson assumed that it was a dog scratching at the door. As PO Hobson continued speaking to § 87(2)(b) he heard the locks of § 87(2)(b) clicking. The door of § 87(2)(b) opened a crack and a pit bull was growling while attempting to get out of the apartment. Before PO Hobson thought of issuing any instructions to the owner, identified via investigation as § 87(2)(b) who was also at the door, the dog "lunged" into the hallway. At this time, PO Hobson feared for his safety because he felt like the dog was going to attack him. PO Hobson did not know why he felt this way, as he is familiar with dogs and can usually tell if they are friendly or not. PO Hobson's instinct was to enter § 87(2)(b)'s apartment, which he did. PO Hobson entered the apartment to get away from the dog and for no other reason. PO Hobson closed the door, leaving PO Cuesta and § 87(2)(b) in the hallway. § 87(2)(b) (Board Review 10) said that she was also left in the hallway, but PO Hobson could not recall § 87(2)(b) being there even after viewing the video, in which she appears.

The video footage of the incident (Board Review 02) contains the following evidence: At the 01:46 minute mark, the door to § 87(2)(b) opens and PO Hobson disappears from frame. PO Hobson said that he was inside § 87(2)(b)'s apartment, § 87(2)(b) at 01:49 when the dog was shot. At 03:32, PO Hobson reenters frame.

Absent exigent circumstances, the threshold of a residence may not be crossed by an officer without a warrant, People v. Reese, 799 N.Y.S.2d (December 10, 2004) (Board Review 14).

§ 87(2)(g)  
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**Allegation B – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Ruben Cuesta damaged § 87(2)(b)'s property.**

It is undisputed that PO Cuesta shot § 87(2)(b)'s dog, thereby causing the dog to die, although some of the surrounding circumstances are in dispute.

§ 87(2)(b) (Board Review 11) said that her dog, a male pit bull named § 87(2)(b) barked at the door, alerting her that someone was there. § 87(2)(b) mindlessly opened the door of her apartment, § 87(2)(b) without first looking through the peephole. § 87(2)(b) who was dressed only in her underwear, was startled at the sight of officers. § 87(2)(b) who was not barking, immediately walked out of the apartment ahead of § 87(2)(b). An officer, identified via investigation as PO Cuesta, nervously backed away from § 87(2)(b) toward the stairwell. § 87(2)(b) said that § 87(2)(b) did not exhibit threatening behavior and did not growl. § 87(2)(b) said, "He's friendly. He's friendly." PO Cuesta said nothing. In less than ten seconds, PO Cuesta un-holstered his firearm and fired one time, shooting § 87(2)(b) in the head.

§ 87(2)(b) (Board Review 09) corroborated § 87(2)(b)'s account, with the following exceptions and additional information: § 87(2)(b) barked three times at a normal volume before the door to § 87(2)(b) opened. § 87(2)(b)'s dogs, who were in another room of her apartment, were also barking. § 87(2)(b) did not know if the officers heard the barking. When the door to § 87(2)(b) opened, § 87(2)(b) stuck her head outside and § 87(2)(b) barked one time. § 87(2)(b) then walked out of the apartment while wagging his tail. An officer, identified via investigation as PO Hobson, quickly pushed § 87(2)(b) into § 87(2)(b)'s apartment, entered with her and closed the door. § 87(2)(b) heard § 87(2)(b) say from the hallway, "He's friendly. He's friendly." § 87(2)(b) heard her daughter § 87(2)(b) who was also in the hallway, say, "He don't bite. He don't bite." § 87(2)(b) heard nothing else before the gunshot. § 87(2)(b) (Board Review 10) corroborated § 87(2)(b)'s testimony, but stated that she said, "§ 87(2)(b) come here. § 87(2)(b) come here," when § 87(2)(b) came into the hallway.

PO Cuesta (Board Review 15) said that as soon as he arrived to the § 87(2)(b) floor landing, he heard a dog barking from the apartment adjacent to § 87(2)(b)'s, which was determined to be § 87(2)(b) belonging to § 87(2)(b). As soon as PO Cuesta heard the bark, he deemed the dog to be potentially dangerous because the bark was loud and did not sound friendly. The dog continuously barked, scratched and growled behind the door as the officers spoke with § 87(2)(b) and neither PO Cuesta nor PO Hobson did anything to address this. PO Cuesta was equipped with an expandable baton, pepper spray and a Glock firearm, all of which he could use as a means of control of a potentially dangerous animal. PO Cuesta said that he may have been trained in potentially dangerous animals eight years prior when he was in the Police Academy, but he could not recall specifically receiving this training or what it entailed. PO Cuesta said that he has received no training on potentially dangerous animals since the Academy. In PO Cuesta's experience, he had never before addressed a potentially dangerous animal in close quarters or immediately addressed a potentially dangerous animal, nor had he witnessed another member of service do this. Before the incident, PO Cuesta had never before discharged his firearm.

PO Cuesta said that as the officers spoke to § 87(2)(b) he heard the clicking of the locks of § 87(2)(b). The door opened, during which time PO Cuesta drew his weapon, as he deemed the dog to be dangerous from his earlier observation of the dog barking. At this time, PO Cuesta was no more than eight feet away from the door. A dog came out of the apartment, and PO Cuesta could not recall if the dog made any noise at the time. The dog was large, unleashed and under no kind of control. PO Cuesta did not hear anyone say anything. PO Cuesta had no time to issue any instructions.

PO Cuesta said that the dog looked toward § 87(2)(b)'s apartment and then came toward him. PO Cuesta was unaware at the time of what PO Hobson did upon seeing the dog. The dog proceeded to walk toward PO Cuesta and then put his head down, which PO Cuesta interpreted as the dog preparing to jump in attack. At this time, PO Cuesta decided to discharge his firearm. PO Cuesta stood two to three feet away from the dog when he discharged his firearm one time, striking the dog. PO Cuesta did this because he felt that the dog was going to attack him and he feared for his safety. PO Cuesta felt that his firearm was the best way to stop the threat as quickly as possible. PO Cuesta did not see anyone else around the dog when he discharged his firearm. PO Cuesta did nothing else before discharging his firearm. PO Cuesta did not use his pepper spray, because given the small space, it would have rendered him incapacitated and unable to deal with the threat if it was ineffective on the dog. PO Cuesta did not use his asp because he had no room to back up if he needed to, and he feared that he would have fallen down the stairs. To PO Cuesta's knowledge, he had no other means of control except the firearm.

PO Hobson (Board Review 13) said that he did not hear the dog barking when he arrived to the § 87(2)(b) floor. As the officers spoke to § 87(2)(b) PO Hobson heard scratching from § 87(2)(b) and assumed the noise was being made by a dog. The door of § 87(2)(b) opened a crack and a pit bull was growling while attempting to get out of the apartment. Before PO Hobson thought of issuing any instructions to the owner, identified via investigation as § 87(2)(b) who was also at the door, the dog "lunged" into the hallway. At this time, PO Hobson entered § 87(2)(b)'s apartment (addressed above) and closed the door before PO Cuesta discharged his firearm.

The video footage of the incident (Board Review 02) contains the following evidence: At the 01:44 minute mark, PO Cuesta looks at the door of § 87(2)(b). The door opens and PO Cuesta simultaneously takes one step backward. The front of a dog's body emerges from the door. PO Cuesta takes a second step backward and PO Hobson quickly exits frame. PO Cuesta holds his firearm in his right hand. At 01:47, PO Cuesta points his firearm while the dog has most of its body outside the door. The dog walks to the middle of the foyer and turns his head to the left while PO Cuesta quickly moves toward the staircase leading downstairs. At 01:48, the dog wags his tail and looks toward PO Cuesta as PO Cuesta places his right foot on a lower step. At 01:49, the dog moves closer to the staircase while wagging its tail. PO Cuesta simultaneously moves his left foot to the second step and a flash is seen from PO Cuesta's firearm, which is in his right hand. The dog quickly sits on its hind legs. At 01:50, the dog falls onto his left side and PO Cuesta moves downstairs to the landing.

The Patrol Guide defines a dangerous dog as the following: a) any that when unprovoked, approaches or menaces any person in a dangerous or terrorizing manner, or in an apparent attitude of attack, upon the streets, sidewalks or any public grounds or places b) any with a known propensity, tendency or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals c) any which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal, without provocation on public or private property d) any owned or harbored primarily or in part for the purpose of dog fighting or any trained for dog fighting. Before using deadly force, every attempt must be made to use other means to contain threats from animals that pose an imminent threat of physical injury to a human being, Patrol Guide Procedure 214-33 (Board Review 16).

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Abuse of Authority: Police Officer Ronald Hobson entered § 87(2)(b) in the Bronx.**

**Allegation D – Abuse of Authority: Police Officer Eric Bernard entered § 87(2)(b) in the Bronx.**

Although not alleged by any civilian, the investigation determined that PO Hobson made a second entry into § 87(2)(b) and that PO Bernard entered § 87(2)(b). PO Hobson (Board Review 13) said that after the dog was shot (addressed above), he opened the door and a commotion ensued in the hallway. § 87(2)(b) lay atop the dog, which was beginning to bleed. PO Hobson closed the door so that he could put a clear message over the radio. About ten to fifteen seconds later, PO Hobson reopened the door. § 87(2)(b) began to behave aggressively, emotionally and erratically. § 87(2)(b) said, “Why did you have to shoot my dog?” and “You killed my dog.” § 87(2)(b) flung the dog’s blood toward the backup officers who arrived and who were identified via investigation as PO Galindo, PO Bernard and PO Chin. PO Hobson stated that he stayed in § 87(2)(b)’s apartment because he feared that § 87(2)(b) would attack him, and for no other reason. PO Bernard then came to the landing and saw PO Hobson inside the apartment. PO Bernard stepped just inside the front door and asked PO Hobson what happened. PO Bernard then went back downstairs. Neither PO Bernard nor PO Hobson went farther into the apartment than just inside the front door. When PO Hobson identified an opportunity to get past § 87(2)(b) who was in front of the staircase with the dog, he did so.

PO Bernard (Board Review 17) said that he did not believe that he entered the residence or that he saw PO Hobson in the residence.

The video footage of the incident (Board Review 02) contains the following evidence: At the 04:05 minute mark, § 87(2)(b) slaps the floor, seemingly spattering blood toward the direction of the backup officers, who are seen at the bottom of the stairs. The blood seemingly strikes PO Bernard, who reacts by touching his head. PO Hobson, who had exited the apartment, backs up and disappears from frame at 04:10. PO Hobson said that at this time, the Central Dispatcher was communicating over the radio, so he reentered the apartment so that he could better respond. At this time, § 87(2)(b) is seen in the hallway with § 87(2)(b) and her other daughter, identified via investigation as § 87(2)(b).

At the 05:20 minute mark, PO Bernard walked from the staircase to where § 87(2)(b)’s apartment door is located, and disappeared from frame. At 05:24, PO Bernard reappears in frame and proceeds downstairs. When PO Bernard was presented with this portion of the video footage, he said that it did not prompt his memory of entering the apartment. PO Bernard said that it was possible that he saw PO Hobson in the apartment and went to speak to him, but he could not recall for certain. PO Hobson is seen leaving the scene at 06:32, which he identified as the moment in which he realized that he could get past § 87(2)(b).



Absent exigent circumstances, the threshold of a residence may not be crossed by an officer without a warrant, People v. Reese, 799 N.Y.S.2d (December 10, 2004) (Board Review 14).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation E – Force: At § 87(2)(b) in the Bronx, Police Officer Frankly Galindo used physical force against § 87(2)(b)**

**Allegation F – Force: At § 87(2)(b) in the Bronx, Police Officer Christopher Chin used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) struck PO Galindo, and that he and PO Chin used physical force to subdue her. The video footage of the incident (Board Review 02) contains the following evidence: At the 04:04 minute mark, § 87(2)(b) who lays atop the dog, slaps the pool of blood on the floor, causing the blood to seemingly striking PO Bernard, who reacts by touching his head. § 87(2)(b) continues to lie atop the dog. At 07:14, § 87(2)(b) begins repeatedly slapping the pool of blood, splashing it on the walls. § 87(2)(b) stands and throws off a blanket being used to cover her, as she is only dressed in her underwear. Between 07:14 and 11:00, § 87(2)(b) alternates between kneeling by the dog and standing. During this time, she exhibits behavior that includes swinging her arms upwards and downwards, petting the dog, looking at her bloodied hands and running her hands through her hair. At 11:00, § 87(2)(b) points downstairs. At 11:04, § 87(2)(b) starts walking downstairs, slips and lands on her buttocks. § 87(2)(b) stands up and raises her right arm above her head. § 87(2)(b) brings down her right hand, seemingly striking an individual, who is hidden from view by the staircase and who was identified via investigation as PO Galindo. At 11:09, PO Galindo enters frame and places § 87(2)(b) against the wall and then onto her back on the stairs as § 87(2)(b) proceeds to strike him three more times. At 11:12, PO Chin enters frame and holds down § 87(2)(b) with PO Galindo by her arms and upper torso. At 11:21, PO Galindo releases § 87(2)(b) and uses his radio to call for assistance. PO Chin continues to hold down § 87(2)(b) until the end of the video at 12:45.

§ 87(2)(b) (Board Review 11) said that could not recall this portion of the incident because she was emotionally distraught from what happened to her dog, and only knew what

occurred after seeing the video. After the incident, § 87(2)(b) had bruises all over her body, and she did not know how they were sustained. § 87(2)(b) went to Saint Barnabas Hospital for treatment. § 87(2)(b) (Board Review 10), § 87(2)(b) (Board Review 09) and § 87(2)(b) (Board Review 18) did not allege any additional force aside from the officers bringing her down to the staircase and holding her down. § 87(2)(b) (Board Review 19) was not present for this portion of the incident.

PO Galindo (Board Review 20) stated that § 87(2)(b) pointed to him and said that he shot the dog. When § 87(2)(b) struck PO Galindo, he grabbed her. PO Galindo placed § 87(2)(b) onto the floor, but he could not articulate specifically how he did this. PO Galindo held down § 87(2)(b) by her upper chest to prevent her from swinging. PO Chin also held down § 87(2)(b). PO Chin (Board Review 21) said that he held § 87(2)(b) down by her hands to prevent her from striking PO Galindo, and for the officers' safety. PO Chin used no further physical force against her. PO Chin held down § 87(2)(b) for approximately five minutes until she calmed down. When § 87(2)(b) was helped up, she hugged PO Chin.

§ 87(2)(b)'s medical records from § 87(2)(b) (Board Reviews 22 and 23) contain the following: On § 87(2)(b), § 87(2)(b) was admitted to the hospital. § 87(2)(b) alleged that she was assaulted and attacked by three male officers. § 87(2)(b) said that officers shot her dog and pushed her to the ground. § 87(2)(b) said that she has been having lower back pain and has been limping on her left side since the incident. § 87(2)(b) was observed to be ambulating with a slight limp on her left side. A radiology report stated that there was no fracture to § 87(2)(b)'s vertebrae, no acute fracture to the left hip, and no dislocation in her joints. The records make no mention of bruising. § 87(2)(b) was prescribed pain medication and advised to apply ice to the areas where she felt pain.

Officers may use the minimal amount of force necessary to overcome resistance to effect an arrest or take an emotionally disturbed person into custody, Patrol Guide Procedure 203-11 (Board Review 24).

§ 87(2)(g)  
[REDACTED]

**Allegation G – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Eric Bernard threatened § 87(2)(b) with the use of force.**

It is undisputed that PO Bernard threatened § 87(2)(b) with the use of force, but some of the circumstances are in question. While § 87(2)(b) and § 87(2)(b) used the terms “nightstick” and “stick” to describe what PO Bernard held, the investigation determined this object to be an asp and this report hereinafter refers to it as such. § 87(2)(b) (Board Review 09) said that an officer identified via investigation as PO Bernard held an asp in his hand and made a movement that looked like he struck § 87(2)(b) with it, but § 87(2)(b) did not see the asp make contact. PO Bernard slammed the floor with the asp. § 87(2)(b) said that the video showed PO Bernard making a movement as if he would strike § 87(2)(b) with the asp, but did not do so. § 87(2)(b) (Board Review 10) said that PO Bernard held an asp and was about to strike § 87(2)(b) with it, but did not because everyone yelled at him not to do so. § 87(2)(b)

(Board Review 18) did not make these allegations, but came to the hallway after § 87(2)(b) was placed on the floor. § 87(2)(b) (Board Review 11) could not recall this portion of the incident and § 87(2)(b) (Board Review 19) was not present for this portion of the incident.

PO Bernard (Board Review 17) said that when § 87(2)(b) struck PO Galindo, PO Bernard took out his asp because he did not know if § 87(2)(b) was going to fight PO Galindo. When PO Bernard saw that PO Chin and PO Galindo had control over § 87(2)(b) PO Bernard slammed the floor with his asp two times to collapse it. PO Bernard did not hit the ground for any other reason other than to collapse it. PO Bernard had his asp out for about 15 seconds. PO Galindo (Board Review 20) and PO Chin (Board Review 21) did not see PO Bernard with his asp drawn.

The video footage of the incident (Board Review 02) contains the following evidence: At the 11:09 minute mark, § 87(2)(b) begins striking PO Galindo. At 11:13, PO Bernard comes into frame. Any action that PO Bernard made with the asp before this time does not appear in the footage, as the view of him is obstructed by the staircase. At 11:15, PO Bernard strikes the floor with an object in his right hand. PO Bernard was presented with this portion of the video and identified this moment as when he collapsed his asp. During this time, PO Galindo and PO Chin hold down § 87(2)(b). The video contains no footage of PO Bernard about to strike § 87(2)(b) with the asp.

§ 87(2)(g)

[REDACTED]

**Allegation H – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Eric Bernard threatened § 87(2)(b) and individuals with the use of force.**

There is a concurrence that PO Bernard threatened § 87(2)(b) and unidentified individuals with the use force, but the details regarding how he did this are disputed. § 87(2)(b) (Board Review 09) said that PO Bernard held an asp and a Taser in his hand. After PO Bernard made a movement to strike § 87(2)(b) with the asp, he told § 87(2)(b) and § 87(2)(b) that if anyone came downstairs, he would strike them with the asp as well. PO Bernard also said that if they came down, he was going to taser them. § 87(2)(b) did not allege that PO Bernard threatened anyone aside from her, § 87(2)(b) and § 87(2)(b) with the Taser.

§ 87(2)(b) (Board Review 10) also alleged that PO Bernard held an asp and a Taser in his hand. PO Bernard said, “Get back. Get back,” and pointed the Taser more than one time at § 87(2)(b) and more than five individuals who were downstairs and had come out of their apartments. PO Bernard told people to go back inside their apartments. § 87(2)(b) did not allege that PO Bernard said that he would strike anyone with an asp.

§ 87(2)(b) (Board Review 18) said that he went back into the apartment momentarily and when he came back into the hallway, officers were holding down § 87(2)(b). An officer identified as PO Bernard seemed to panic when he saw § 87(2)(b) and § 87(2)(b) at the top of the stairs. PO Bernard pulled out pepper spray and said to them, “Back up. Back up.” PO Bernard waved the pepper spray toward § 87(2)(b) and § 87(2)(b). § 87(2)(b) said that PO Bernard held nothing else in his hands. § 87(2)(b) said that he did not see or hear anything about a Taser. § 87(2)(b) made no allegation regarding an asp. § 87(2)(b) made no allegation that PO Bernard threatened anyone aside from him, § 87(2)(b) and § 87(2)(b) with force.

§ 87(2)(b) (Board Review 11) could not recall this part of the incident and § 87(2)(b) (Board Review 19) was not present for this part of the incident.

PO Bernard (Board Review 17) said that while he held his asp, he did not say that he would strike anyone with it. PO Bernard, PO Galindo and PO Chin were not equipped with Tasers. PO Bernard said that after he collapsed his asp, people from the floors below came toward the officers while yelling at them. PO Bernard took out his pepper spray and told the individuals to stay back and go into their apartments and they eventually complied. PO Bernard could not recall if he extended the pepper spray toward the individuals downstairs and could not recall extending it toward the individuals upstairs. PO Bernard had his pepper spray out for approximately fifteen seconds. PO Bernard did this to protect himself and the officers, as people were advancing toward them and § 87(2)(b) was fighting with PO Galindo. PO Chin (Board Review 21) and PO Galindo (Board Review 20) said that they were unaware of PO Bernard holding an asp or pepper spray in his hands, and that no officer had a Taser. Both PO Chin and PO Galindo heard PO Bernard say, “Get back,” and mentioned that during the incident, people from downstairs apartments were trying to come upstairs to where the dog was located.

The video footage of the incident (Board Review 02) contains the following evidence: From the 11:10 minute mark to the end of the video at 12:45, no officer is seen holding a Taser. At 11:15, PO Bernard holds an object that he identified as an asp. From 11:50 to 11:55, PO Bernard holds an object with an extended arm at chest level. PO Bernard waves the object horizontally first with his right hand three times and then with his left hand four times. PO Bernard goes out of frame briefly at 11:19, from 11:26 to 11:29 and from 11:39 to 11:47. When PO Bernard was presented with the video footage, he could not recall what was in his hands when he waves them. PO Bernard could only recall holding his pepper spray when addressing the people downstairs.

Officers may use the minimal amount of force necessary to overcome resistance to effect an arrest or take an emotionally disturbed person into custody, Patrol Guide Procedure 203-11 (Board Review 24).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation I – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Eric Bernard threatened § 87(2)(b) with the use of force.**

Both § 87(2)(b) (Board Review 09) and § 87(2)(b) (Board Review 10) alleged that while § 87(2)(b) was being held down on the stairs, PO Bernard threatened them, § 87(2)(b) and also § 87(2)(b) with the use of force. § 87(2)(b)'s testimony (Board Review 19) indicated that she was not present for this portion of the incident and she did not allege being threatened with force. The video footage of the incident (Board Review 02) confirms § 87(2)(b)'s statement, as she is seen leaving the fifth floor at the 09:00 minute mark before this portion of the incident begins at 11:04.

§ 87(2)(g)

**Allegation J – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Frankly Galindo threatened § 87(2)(b) with the use of force.**

It is in dispute that PO Galindo threatened § 87(2)(b) with the use of force. § 87(2)(b) (Board Review 09) said that after PO Bernard threatened her and the others with the Taser that he held, she tried to go downstairs, but PO Galindo said, “No. We’re going to tase you. Stay away.” No other civilian alleged this against PO Galindo.

PO Galindo (Board Review 20) denied hearing any officer threaten to taser anyone. PO Galindo said that neither he, PO Bernard nor PO Chin were not equipped with Tasers. PO Bernard (Board Review 17) and PO Chin (Board Review 21) corroborated PO Galindo's testimony.

The video footage of the incident (Board Review 02) contains the following evidence: From the 11:10 minute mark to the end of the video at 12:45, no officer is seen holding a Taser. At 11:15, PO Bernard holds an object that he identified as an asp. At 11:50 to 11:55, PO Bernard holds an object that he identified as pepper spray.

§ 87(2)(g)

**Allegation K – Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) (Board Review 09) and § 87(2)(b) (Board Review 10) alleged that when they left the building, an officer cursed at § 87(2)(b) saying, "Fuck you." § 87(2)(b) (Board Review 11) did not allege this. § 87(2)(g)

**Allegation L – Force: At 326 East 110th Street in Manhattan, an officer used physical force against § 87(2)(b)**

§ 87(2)(b) (Board Review 10) alleged that when she was at the Animal Care Control Center in Manhattan, she was kneeling and taking a recording of the dog when an officer pushed her over. § 87(2)(b) alleged no injuries from this. § 87(2)(b) could provide no other description of the officer aside from gender. Neither § 87(2)(b) (Board Review 09) nor § 87(2)(b) (Board Review 11) alleged this. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

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Squad: 16

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date